

Serial No. 10/663,949**Atty. Doc. No. 2003P07614US****REMARKS**

Claims 1-22 are pending and presented for examination. No claims have been amended, added or canceled by way of this response. Applicants respectfully request reconsideration and allowance of the pending claims in view of the following remarks.

Response To Rejections Under Section 102:

Claims 1-8 and 12-17 stand rejected under 35 U.S.C. § 102(e), the Examiner contending that these claims are anticipated by Schmidt (USPAN 2004/0058225).

Applicants respectfully submit that the declaration of prior inventorship previously filed on February 18, 2005 under 37 C.F.R. 1.131 antedates and overcomes the Schmidt reference, which discloses but does not claim Applicants' claimed invention. In particular, the critical date of the Schmidt reference is September 24, 2002, and Applicants declaration proves conception and diligent reduction to practice prior to the September 24, 2002 critical date (see e.g. para 4).

Response To Rejections Under Section 103:

Claims 9-11 stand rejected under 35 U.S.C. § 103(a), the Examiner contending that these claims are obvious over Schmidt in view of Clemmer (Met Soc Publication), Cable (USPN 5,589,285), and/or Jension (USPN 5,035,962).

In view of the 37 C.F.R. 1.131 declaration, reconsideration and withdrawal of the Section 103 rejections, each of which rely upon Schmidt, is respectfully requested. Additionally, as suggested by the Examiner, Schmidt may not be used as prior art under Section 103 because the 35 U.S.C. § 103(c) exception applies. The instant application (Serial No. 10/663,949) and Schmidt (Serial No. 10/253,469) were, at the time the invention of the instant application was

Serial No. 10/663,949
Atty. Doc. No. 2003P07614US

made, owned by Siemens Westinghouse Power Corporation. Enclosed is the assignment record of Schmidt, submitted as evidence pursuant to M.P.E.P. § 706.02(1)(2)II.

Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, Applicants respectfully request that the Examiner reconsider the rejections and timely pass the application to allowance. Please grant any extensions of time required to enter this paper. The commissioner is hereby authorized to charge any appropriate fees due in connection with this paper, including the fees specified in 37 C.F.R. §§ 1.16 (c), 1.17(a)(1) and 1.20(d) for total independent claims in excess of 3, or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: 6/10/05

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